IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NOS. 14951 AND 14952 OF 1997

WRIT PETITION NO : 14951 of 1997

Between:

R. Rangayya, S/o R. Ramaiah, Hindu,

Aged 50 years, R/o 3-6-782/7, Banjarasadan,

Street No. 14, Himayathnagar, Hyderabad.

..... PETITIONER

AND

1. The Presiding Officer, Debts Recovery Tribunal,

Bangalore.

2. Industrial Development Bank of India, IDBI Tower,

Guffee Parade, Bombay-400 005.

3. The Industrial Finance Corporation of India

Limited, 16, Sansad Marg, Bank of Baroda,

Bldg, New Delhi – 110 001.

4. The Industrial Credit & Investment Corporation

of India Limited, 163, Backbay Reclamation,

Bombay – 400 020.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly in the nature of writ of Mandamus directing the 1st respondent to give an opportunity to the petitioner for submitting defence arguments by setting aside the order of the 1st respondent dated 25.6.1997 in O.A No. 533 of 1996 setting the petitioner ex parte.

For the Petitioner: MR. A.SATYANARAYANA RAO, Advocate (Not present).

For Respondent Nos.2 to 4: Mr. S. Niranjan Reddy, Standing Counsel.

WRIT PETITION NO : 14952 of 1997

Between:

D.S. Venkatesh, S/o Sri Srinivasa Murthy, Hindu,

Aged about 55 years, R/O No. 21-10-304/308,

Patigadda Road, Secunderabad.

..... PETITIONER

AND

1. The Presiding Officer, Debts Recovery Tribunal,

Bangalore.

2. Industrial Development Bank of India, IDBI Tower,

Guffee Parade, Bombay-400 005.

3. The Industrial Finance Corporation of India

Limited, 16, Sansad Marg, Bank of Baroda Bldg,

New Delhi – 110 001.

4. The Industrial Credit & Investment Corporation

of India Limited, 163, Backbay Reclamation,

Bombay – 400 020.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly in the nature of writ of Mandamus directing the 1st respondent to give an opportunity to the petitioner for submitting defence arguments by setting aside the order of the 1st respondent dated 25.6.1997 in O.A No. 533 of 1996 setting the petitioner ex parte.

For the Petitioner: MR. A.SATYANARAYANA RAO, Advocate (Not present).

For Respondent Nos. 2 to 4: Mr. S. Niranjan Reddy, Standing Counsel.

The Court made the following Common Order: (per Sri B. Sudershan Reddy, J)

Both the writ petitions can be disposed of by a common order.

The petitioners as well as their counsel were not present when the matter was taken up for hearing on 29.09.2004 both in the forenoon and in the afternoon. We have accordingly directed the matters to be listed for hearing on 30.09.2004. The same situation continued. None appears on behalf of the petitioners in these writ petitions even today when we have taken up the matter for hearing under the caption 'For Judgment'.

We have heard the learned Standing Counsel appearing on behalf of respondents 2 to 4 and perused the record.

Respondents 2 to 4 filed O.A No. 533 of 1996 against the petitioners and others for recovery of a sum of Rs.15,52,19,165/- on the file of the Debts Recovery

Tribunal, Bangalore. The O.A was filed against both the petitioners as well as the Directors of the borrower company viz., M/s. Nagarjuna SLB Limited.

The case of the petitioners is that they are not liable for the amounts that were borrowed by the Company from respondent 2 to 4 for the reason that they have already resigned from the Board of Directors and the same was accepted.

Be it as it may, the case was posted before the Tribunal for hearing on 25.6.1997. The case set up by the petitioners is that at about 11.30 A.M, they along with their counsel went to the place where the Presiding Officer was conducting the Court. But by the time, the Presiding Officer returned to his Chambers after duly setting the petitioners herein *ex parte* and posted the main case for Orders on 15.7.1997. It is stated in the affidavit filed in support of the writ petition that neither the counsel nor the petitioners were aware as to where the Presiding Officer was conducting the Court and therefore, they were not present when the matter was called. According to them, their absence is neither wilful nor deliberate but only due to the reason that they were not aware of the place or the date of sitting of the Presiding Officer at Hyderabad.

It is further stated that on the very next day i.e. to say on 26.6.1997 applications were filed for setting aside the *ex parte* order dated 25.6.1997 and to call P.W 1 for cross examination etc. It is alleged that on 7.7.1997 the Presiding Officer refused to receive the applications and rejected the applications outright.

The action of the 1st respondent is challenged in the writ petitions. No order passed by the 1st respondent-Tribunal is produced for our consideration. There is no material produced by the petitioners in support of their plea that such applications as stated by them were in fact filed in the Tribunal. Not even SR number is given. We find it difficult to countenance the allegation that the 1st respondent refused even to acknowledge the applications. The 1st respondent has all the powers of a civil Court and the procedure for hearing and receiving of applications is prescribed by the statute and as well as the rules framed under the statute. In our considered opinion,

the allegations made in the affidavit do not inspire any confidence and we find no bonafides on the part of the petitioners in making such irresponsible allegations against the 1st respondent-Tribunal. The conduct of the petitioners is eloquent and self-evident. The attempt on the part of the petitioners is nothing but to protract the proceedings.

For the aforesaid reasons, we hold that the writ petitions are frivolous and speculative in their nature. We accordingly find no merit in the writ petitions and the same shall accordingly stand dismissed with costs quantified at Rupees Five Thousand in each case.

(B. Sudershan Reddy, J)

01..10..2004

(K.C. Bhanu, J)

ks

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Presiding Officer, Debts Recovery Tribunal,

Bangalore.

2. Industrial Development Bank of India, IDBI Tower,

Guffee Parade, Bombay-400 005.

3. The Industrial Finance Corporation of India
Limited, 16, Sansad Marg, Bank of Baroda,
Bldg, New Delhi – 110 001.

4. The Industrial Credit & Investment Corporation
of India Limited, 163, Backbay Reclamation,
Bombay – 400 020.

5. Two CD copies.